



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

MORGAN, LEWIS BOCKIUS, LLP  
2 PALO ALTO SQUARE  
3000 EL CAMINO REAL  
PALO ALTO CA 94306

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of :  
Lewis B. Aronson et al :  
Application No. 09/777,917 : DECISION ON PETITION  
Filed: February 5, 2001 : UNDER 37 CFR 1.313(c) (2)  
Attorney Docket No. 9775-0052-999 :

This is a decision on the petition, filed November 29, 2004, under 37 CFR 1.313(c) (2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**, *nunc pro tunc*.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and subsequently issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on July 6, 2005. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The issue fee in reply to the second Notice of Allowance and Fee(s) Due mailed July 6, 2005 was received on July 18, 2005. Accordingly, this matter is being referred to Publishing Division for taking such further action as the nature of the case requires.

*Karen Creasy*  
Karen Creasy  
Petitions Examiner  
Office of Petitions